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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, PENSION, WELFARE AND  
TRAINING FUNDS OF THE  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS LOCAL 14-14B, AFL-CIO, by its  
Trustees EDWIN L. CHRISTIAN, CHRIS  
CONFREY, JOHN CRONIN, FRANCIS P.  
DIMENNA, ALFRED GEROSA, JOHN  
HYERS, DANIEL NOESGES, and JOHN F.  
O'HARE, and JOHN and JANE DOE, as  
Beneficiaries of the Annuity, Pension, Welfare  
and Training Funds of the International Union  
of Operating Engineers, Local 14-14B,  
AFL-CIO,

**MEMORANDUM AND ORDER**

Case No. 07-CV-876 (FB) (RML)

Plaintiffs,

-against-

STAR STRUCTURAL, INC.,

Defendant.  
-----x

*Appearances:*

*For the Plaintiff:*

JAMES MICHAEL STEINBERG, ESQ.  
Brady McGuire & Steinberg, LLP  
603 Warburton Avenue  
P.O. Box 176  
Hastings-on-Hudson, NY 10706

**BLOCK, Senior District Judge:**

On February 21, 2008, Magistrate Judge Levy issued a Report and Recommendation ("R&R") recommending plaintiffs be permitted to conduct an audit of defendant's books and records for the period from August 29, 2003 through June 30, 2006, as well as \$2,098.75 in attorney's fees and costs. *See* R&R at 7. The R&R also stated that failure to object within ten days would preclude appellate review. *See id.* According to the

docket, the Clerk's office mailed a copy of the R&R to defendant on February 21, 2008. No objections to the R&R have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

**SO ORDERED.**

s/FB

  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
March 25, 2008